5.0 Comments Received and Responses

The DOE received comments from 12 organizations and individuals on the pre-approval version of this Environmental Assessment. Comments were received from the following parties:

(1) Congressman Duncan Hunter, U.S. House of Representatives 52nd District, CA

(2) Congressman Bob Filner, U.S. House of Representatives 50th District, CA

(3) International Boundary and Water Commission, U.S. and Mexico

(4) U.S. Environmental Protection Agency, Region IX

(5) California Department of Transportation

(6) California Air Resources Board

(7) Air Pollution Control District of Imperial County

(8) Department of Public Works, Imperial County

(9) Planning/Building Department, Imperial County

(10) Border Power Plant Working Group

(11) American Lung Association

(12) Carlos Yruretagoyena, Calexico, California

In response to many of the comments DOE added sections to, corrected, clarified, or otherwise revised the EA. Each comment was reviewed for content and relevance to the environmental analyses presented in the EA.

Many commenters raised similar issues and concerns. In order to avoid duplication in responses to the same or similar issues, comments were categorized under major topics and a common response was prepared for each topic. Some comments raised topics that are not pertinent to the EA. In those cases DOE prepared a response but did not change the EA text.

After the close of the comment period on the pre-approval EA, DOE received approximately 400 substantially identical letters via electronic mail requesting that DOE

prepare an environmental impact statement to study the impacts of powerplant construction in the U.S.-Mexico border region. These letters also raised concern about the impacts associated with air emissions from and water use by these powerplants. The major issues summarized below also address the concerns and comments contained in those electronic mail letters.

The major issues raised by commenters and summarized in this section include:

Issue 1. Connected Actions

> *Commenters indicated that the federal agency actions analyzed in this EA (i.e., DOE's issuance of Presidential permits for the SER and BCP electric transmission line projects to cross the U.S./Mexico international border and BLM's issuance of rights-of-way for the transmission lines to cross BLM-administered land) and FERC's actions to issue a Certificate of Convenience and Necessity and a Presidential permit to cross the border to North Baja Pipeline, LLC (NBP, LLC) for the North Baja Natural Gas Pipeline Project, as well as the associated electric generating facilities in Mexico, are all "connected actions" within the meaning of NEPA and therefore are required to be analyzed in a single NEPA document.*

Response. DOE and BLM do not agree that the actions analyzed by DOE and BLM in this EA and the actions analyzed by FERC in a draft EIS for the North Baja Natural Gas Pipeline Project (FERC/EIS-0132D) are connected actions. While the agency actions (and the regulated applicant activities) for the transmission lines on the one hand and the pipeline on the other are related and complementary, in that they all would facilitate the operation of the electric generating facilities being constructed in Mexico, they are independent actions which serve distinct functions and which can proceed separately. The actions analyzed in this EA would allow a means for the applicants to market power in the U.S., while the actions analyzed in the FERC draft EIS would allow a means for U.S. natural gas to fuel several facilities in Mexico (and one in the U.S.), including those associated with the SER and BCP transmission line projects.

Under the Council of Environmental Quality's regulations implementing NEPA, actions are connected if they:

(i) automatically trigger other actions which may require environmental impact statements.

(ii) cannot or will not proceed unless other actions are taken previously or simultaneously.

(iii) are interdependent parts of a larger action and depend on the larger action for their justification.

40 CFR 1508.25(a)(1)

It is clear that the DOE and BLM regulatory actions will not automatically trigger FERC's actions, or vice versa. Each agency's action will be taken pursuant to its underlying authority, and these authorities are independent of each other. Thus, DOE and BLM granting the approvals necessary for the construction of the electric transmission lines under consideration in this EA will not automatically trigger FERC's decision to allow construction of the natural gas pipeline, nor will FERC's approval of the natural gas pipeline trigger decisions by DOE to grant the Presidential permits or by BLM to grant the rights of way for the transmission lines. Likewise, the actions to be taken by the applicants before DOE and BLM will not automatically trigger the actions to be taken by the applicant before FERC, and vice versa.

It is also clear that FERC's actions and the resulting applicant activities can proceed in the face of a decision by DOE or BLM to deny SER or BCP's application, and vice versa. Moreover, each set of actions has utility independent of the other, and it is reasonable to conclude that in each case the applicant(s) will proceed, even if approvals are not forthcoming for the other set of actions. In consultation with FERC staff, DOE and BLM have determined that there are currently under construction, approved for construction, or existing four electric generating facilities, three in Mexico and one in the U.S., which plan to burn natural gas supplied by the NBP LLC project. There are eleven individual units totaling about 3230 megawatts at these four plants. The DOE/BLM actions are related to only four of these units at two facilities totaling about 1160 megawatts. In addition, NBP LLC has submitted information to FERC projecting market demand for the gas from the new pipeline, in which the applicant asserts that the pipeline is a viable project without the generating facilities associated with the SER and BCP transmission lines (Appendix F). Therefore, NBP LLC will proceed with the pipeline project (and will need FERC's actions to do so), regardless of whether DOE and BLM's actions are taken.

Conversely, the DOE/BLM actions have utility independent of FERC's actions. The owners of the generating facilities have made substantial investment in the construction of the generating facilities (see Section 2.2.5), and it is reasonable to conclude that power will be available for export, regardless of the fuel source. Furthermore, SER and BCP have indicated that the owners of the generating facilities have identified possible alternate sources of fuel other than gas from the NBP LLC pipeline (Appendix G). Thus, SER and BCP will proceed with the transmission line projects (and will need the DOE Presidential permits and BLM rights of way), regardless of whether FERC takes its actions for the new pipeline.

Finally, the DOE/BLM actions and FERC's actions and the regulated applicant activities do not display the tight interdependency necessary to be considered parts of a larger action. The only nexus between the DOE/BLM actions and FERC approval actions is the generating facilities located in Mexico. DOE and BLM do not believe that this nexus is sufficient to characterize the actions as connected. The various agencies' actions influence different aspects of the facilities' operation. FERC's action will influence the source of fuel for the SER and BCP-related generating facilities. However, neither DOE nor BLM's action is dependent on, nor in any way influences, the fuel source for the generating facilities. The DOE action only regulates whether SER and BCP market their power in the U.S., while the BLM action only regulates whether and how SER and BCP cross federal land in order to market that power. Therefore, neither the DOE action nor the BLM action depends on a larger action for its justification.

With respect to the generating facilities themselves, it is arguable that they have sufficient independent utility such that they are not connected actions to the DOE/BLM actions, either. Neither DOE nor BLM has any regulatory jurisdiction or control over the facilities, and if DOE or BLM were to deny one or both applications, the owners could decide to complete construction and operate the facilities to market power in Mexico (see Section 2.1). However, without opining on whether the generating facilities are connected actions within the meaning of 40 CFR 1508.25(a)(1), DOE and BLM have elected to analyze the impacts in the U.S. of operation of the generating facilities, in the interest of fully informing the public about activities related to the DOE/BLM actions. For cumulative impact purposes, this EA also discusses the impacts in the U.S. of the generating facilities co-located with BCP facilities that will market power in Mexico (see Section 4.12.2). In addition, it acknowledges the related and complementary nature of the North Baja Pipeline Project by referencing the FERC draft EIS in the cumulative impacts discussion (see Section 4.12.3).

Issue 2. Air Quality Impacts

> *Commenters claimed that air pollutant emissions from the electric generating facilities in Mexico associated with the SER and BCP transmission lines would exacerbate the existing air quality problems within Imperial County, California, and cause serious health impacts. The levels of emissions that some commenters asserted would be emitted by these facilities were substantially higher than the levels analyzed in this EA.*

Response. The analysis in this EA conclusively demonstrates that the impacts in the U.S. caused by the emissions from the generating facilities associated with the SER and BCP transmission lines would be below levels that are used in a regulatory context to determine significance. The U.S. EPA has established significance levels (SL's) for the criteria pollutants NO_2, SO_2, CO, and PM_{10}. Where air dispersion modeling is

performed, the U.S. EPA does not require a full impact analysis when emissions of a pollutant from a proposed new source would not increase ambient concentrations by more than the prescribed SLs. Thus, SLs may be generally regarded as thresholds of impact below which impact is not viewed to be significant. Table 4.2.4 shows that the concentrations of the criteria pollutants from the combined emissions from the TDM, EBC, and EAX export turbines (those generating facilities specifically associated with the subject transmission lines) are below the SL's.

The methodology for the analysis is described in Appendix B. The estimated emissions from the generating facilities used in the analysis were taken from the information prepared to comply with Mexico's permitting requirements. These estimates were based on the operating characteristics of the facilities, including the pollution control equipment the applicants have agreed to install. DOE and BLM have reviewed this analysis and find it accurate. DOE and BLM do not agree with the undocumented higher levels of emissions asserted by the commenters. To the extent these higher levels may include emissions from facilities other than those associated with the SER and BCP transmission lines, DOE and BLM do not agree that they are within the scope of this EA.

Issue 3. Water Use/Quality

> *Commenters expressed concern about the additional use of water by the electric generating facilities in Mexico associated with the SER and BCP transmission lines. A general concern was expressed for any added water use in a region that has a scarcity of water. A specific concern was for how the use of water by the associated generating facilities in Mexico would change the volume and salinity of water entering the Salton Sea from the New River. Commenters suggested the use of dry cooling or a combination of wet/dry cooling technologies as a means of mitigating potential impacts on water use and salinity.*

Response. The draft version of this EA did not discuss the issues of water usage or quality. DOE and BLM have modified this EA to include discussions of existing water use/quality and potential impacts on water use/quality from the proposed actions. These discussions are found in sections 3.10 and 4.10, respectively.

As indicated in sections 3.10 and 4.10, total water flow into the Salton Sea from all sources is approximately 1,345,000 acre-feet per year. Water use by the TDM facility and the entire LRPC would reduce water flow into the Salton Sea by approximately 3,400 acre-feet per year and 7,170 acre-feet per year, respectively. Together, water use by these facilities would reduce water flow into the Salton Sea by 10,570 acre-feet per year or approximately 0.79 percent of the total water flow into the Salton Sea. This percent change in water flow is below the level of sensitivity of most water meters.

The TDM facility and the LRPC combined will remove approximately 6,120,000 pounds per year of total dissolved solids. The combination of reduced water flows and increased salinity of water discharges by the TDM facility and the LRPC results in a negligible change in salinity of the Salton Sea of 0.142 percent.

Issue 4. Mitigation

> *Commenters requested that DOE and BLM require the Mexican power plants be required to meet U.S. emission standards and employ Best Available Control Technologies (BACT). They also indicated that the issuance of permits by DOE and BLM should be conditioned on the implementation of measures designed to reduce the impacts on air and water from the associated electric generating facilities.*

Response. DOE and BLM believe that the owners of the TDM, EBC, and the EAX export turbines have taken substantial measures to mitigate the impacts from their facilities by voluntarily agreeing to equip them with pollution control technology that would significantly reduce emissions. The TDM facility will employ equipment which would be considered Best Available Control Technology (BACT) for facilities built in the U.S. These controls include dry low-NO_x combustor technology, a selective catalytic reduction system, and catalytic oxidizers for carbon monoxide emissions control. This technology will allow air emissions from the TDM facility to meet emissions standards established by the State of California. The EBC and EAX turbines designated for export to the U.S. also would be equipped with dry low-NOx combustors and SCR. As a result of the use of these emissions control technologies, the impacts on air quality (as shown in Table 4.2.4) from the criteria pollutants would be below the Significance Levels established by the U.S. EPA (see Issue 2, above). In addition, as discussed in Section 4.2.4.1, the owners of the EBC and EAX export turbines have agreed to participate in a program to foster sustainable development in the Imperial Valley by investigating ways to reduce ozone. Also, analysis of the impacts on water use by the associated Mexican powerplants and the resulting change in salinity of the Salton Sea (as discussed in section 4.10 and Issue 3., above) shows these impacts to be negligible.

Issue 5. Need for Environmental Impact Statement

> *Several commenters suggested that the impacts on the air quality in Imperial County and the impacts on the volume and salinity of the water entering the Salton Sea would be significant and could only be adequately addressed by preparation of an environmental impact statement.*

Response. The information and analyses contained in this EA do not support those assertions. As noted in the response above to Issue 2, the impact of all criteria air pollutants emitted by a combination of the TDM, ECB, and EAX export turbines is

predicted to be below all Significance Levels established by the U.S. EPA. Similarly, as indicated in the response to Issue 3 above, the change in the water flow into and the salinity of the Salton Sea has been calculated to be below the threshold of detection by most water measuring devices. Furthermore, assessment of the impacts on all other environmental resources, as discussed throughout this EA, has demonstrated that there would be no significant impacts from the subject projects. Consequently, preparation of an environmental impact statement is not warranted.

Issue 6. Other Permitting Requirements

> *Commenters noted that the applicants for Presidential permits and rights-of-way also must obtain permits from other federal and state agencies before either of these projects could be developed.*

DOE and BLM agree with these comments and have informed both applicants of their responsibilities for obtaining all other requisite permits.

Issue 7. Emergency Response Measures

> *Several commenters expressed concern that there appeared to be no emergency response plan to deal with the damage or destruction of the cross-border transmission lines due to terrorist actions, earthquakes, plane crashes, or other actions affecting the integrity of the proposed transmission lines.*

Response. One of the criteria that DOE considers before granting a Presidential permit is the impact of the proposed cross-border transmission line(s) on the reliability of the U.S. electric power supply system. In determining such reliability impact, technical studies are performed which model the operation of the regional electric power supply system under normal and emergency conditions. Emergency analysis assumes the immediate and total loss of the cross-border transmission line(s) during the operating conditions that would place the most stress on the electric power grid if the new facilities were instantaneously rendered unavailable, regardless of the cause. The results of these technical studies and the associated reliability analyses are not part of DOE's NEPA document.